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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

09/521,808 03/09/00 LAMKE

I	7366
ART UNIT	PAPER NUMBER

001688 MM41/1003  
POLSTER, LIEDER, WOODRUFF & LUCCHESI  
763 SOUTH NEW BALLAS ROAD  
ST. LOUIS MO 63141-8750

DATE MAILED ON, A

2875

10/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/521,808	LAMKE ET AL.
	Examiner Anabel M Ton	Art Unit 2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

#### Status

1) Responsive to communication(s) filed on 09 March 2000.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) 18-23 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 and 24 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims 1-24 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:

1. received.

2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_.

3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

19) Notice of Informal Patent Application (PTO-152)

20) Other: \_\_\_\_\_

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**DETAILED ACTION**

**Election/Restrictions**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17 and 24, drawn to a lamp assembly, classified in class 362, subclass 226.
- II. Claims 18-23, drawn to a method of making a lamp assembly, classified in class 445, subclass 24.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make a different product such as the process of making can make a materially different apparatus where the molded lens does not encapsulate the circuit board.

3. During a telephone conversation with Lionel Lucchesi on September 24, 2001 a provisional election was made without traverse to prosecute the invention of Lamke et al, claims 1-17 and 24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1,2,9,11 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Bedrosian et al (6,276,822).

6. Bedrosian discloses a support circuit board (22); a plurality of light emitting diodes mounted to said circuit board (24); an electrical connection attached to said circuit board and extending outwardly of said lamp assembly (30); a mold in place lens material encapsulating the circuit board and light emitting diodes (12), and formed to provide a predetermined shape for said lens assembly, said electrical connection extending outwardly of said lens assembly (fig 2), the LEDS are positioned and arranged in rows and columns (fig 2),

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-8 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedrosian et al as applied to claim 1 and in further view of Hutchisson (5,325,271).

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9. Hutchison discloses LED emitting a light having a different color from at least another LED. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a set of LED's emitting different colors from one another, for such a practice is old and well known in the art as a matter of design choice (please see Hutchison). With regards to a plurality of LED's emitting a different color from another plurality of LED's (in this case specified as "rows"), it would have been obvious to one of ordinary skill in the art at the time the invention was made to do so, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

10. With regards to the lens having a color associated with it (please see Berg). It would have been obvious to one of ordinary skill in the art at the time the invention was made to color the lens, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for its intended use. *In re Leshin*, 125 USPQ 416.

11. With regards to the lens withstanding at least 30lb of force/in<sup>2</sup> without damage. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have such a force withstanding lens, for such lamp covers or lenses are well known in the art for their use in illuminating hazardous environments and to promote longevity of the lens.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berg and Schaffer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton  
Examiner  
Art Unit 2875

AMT  
September 25, 2001

  
Stephen Husar  
Primary Examiner